

CHAPTER 28

~~Rules and Regulations for Medicaid~~

Swing-bed Services

REIMBURSEMENT OF SWING-BED SERVICES

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to the Medical Assistance and Services Act at W.S. §§ 42-4-101, ~~et seq.~~ through 42-4-306, ~~and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, et seq.~~

Section 2. Purpose and Applicability.

(a) This Chapter has been adopted to govern the provision of and reimbursement of services provided to clients in swing-beds and shall apply to all clients and providers.

(b) The Department may issue manuals, bulletins, or both to interpret the provisions of this Chapter. Such manuals and bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in manuals or bulletins shall be subordinate to the provisions of this Chapter.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter.

Section 3. Definitions. Except as otherwise specified in the Rules and Regulations of Wyoming Medicaid, Chapter 1, Definitions, the terminology used in this Chapter is the standard terminology and has the standard meaning used in healthcare, Medicaid, and Medicare.

Section 4. General Provisions.

(a) Medicaid reimbursement for swing-bed services and services provided to extraordinary care clients is limited to services furnished to individuals that are nursing facility eligible.

Section 5. Provider Participation.

(a) Payments only to providers. No hospital that provides swing-bed services to a client shall receive Medicaid funds unless the hospital is certified to provide such services, has signed a provider agreement, and is enrolled.

(b) Compliance with HHS regulations. A hospital that wishes to receive Medicaid reimbursement for swing-bed services furnished to a client ~~must~~ shall meet the requirements of applicable federal regulations, including 42 C.F.R. § 482.6658 and 483.1 *et seq.*

(c) Compliance with the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation. A hospital that wishes to receive Medicaid reimbursement for swing-bed services furnished to a client must meet the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation.

Section 6. Provider Records. A provider must comply with the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation

Section 7. Verification of Client Data. A provider must comply with the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation.

Section 8. Pre-admission Screening Resident Review (PASRR)

(a) General requirements. A patient that receives swing bed services is subject to the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 19, Nursing Facility Preadmission Screenings.

(b) Failure to timely complete. The failure to timely complete the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 19, Nursing Facility Preadmission Screenings, shall result in nonpayment for services provided after the date of admission until the date of completion.

(c) Timely completion of PASRR Level II. For clients meeting the criteria of 42 CFR 483.106 (b)(2) as an exempted hospital discharge, the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 19, Nursing Facility Preadmission Screenings, Section 7, ~~must~~ shall be satisfied on or before the fortieth (40) consecutive calendar day after admission.

(d) Failure to timely complete PASRR Level II. The failure to timely complete the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 19, Nursing Facility Preadmission Screenings, Section 7, shall result in nonpayment for services provided after the fortieth (40) consecutive day and until the date the PASRR requirements are satisfied.

Section 9. Minimum Data Set (MDS).

(a) General requirements. The MDS requirements, resident assessment required by 42 C.F.R. § 483.20, for nursing facility services shall also apply to swing-bed

services. Each provider ~~must~~ shall comply with the MDS requirements for nursing facility services.

(b) Timely completion. The MDS ~~must~~ shall be completed on or before the day specified by HHS regulations.

Section 10. Determination of Medical Eligibility. All applicants or clients ~~must~~ shall undergo an evaluation of medical necessity pursuant to the Rules and Regulations of Wyoming Medicaid, Chapter 22, ~~Nursing Facility Long Term Care/Home and Community Based Evaluation~~ Evaluation of Medical Necessity for Medicaid Long Term Care Program, before a hospital may receive Medicaid reimbursement for services provided to an individual in a swing-bed. Chapter 22 contains the LT-101 requirements.

Section 11. Medicaid Allowable Payment for Swing-bed Services.

(a) The per diem rate for swing-bed services shall be the lower of:

(i) The hospital's usual and customary charges for swing-bed services;
or

(ii) The lowest per diem rate currently in effect for nursing facility services furnished in a nursing facility in the community where the hospital is located, as determined pursuant to the Rules and Regulations of Wyoming Medicaid, Chapter 7, Nursing Home Reimbursement System.

(iii) The per diem rate includes reimbursement for all services and supplies furnished to the client, including all services and supplies included in the per diem rates established pursuant to the Rules and Regulations of Wyoming Medicaid, Chapter 7, Nursing Home Reimbursement System, (including Attachment A), except as otherwise specified in this Chapter.

(b) A hospital shall not be reimbursed for swing-bed services if:

(i) The client was admitted to the hospital from a nursing facility which has available an appropriate bed to which the client could return;

(ii) There is an available bed in a nursing facility within the hospital's geographic region, as defined in 42 C.F.R. § 413.114(b) and the client has not been transferred as required by Section 13.

(A) "Available bed." A certified bed in a nursing facility that is:

(I) Not occupied by an individual;

(II) Not a reserved bed for which the facility has

received or will receive reimbursement; and

(III) In a nursing facility willing and able to provide the services required by the client.

(iii) The hospital is located outside the State of Wyoming; or

(iv) As otherwise prohibited by 42 C.F.R. § 413.114(d).

(c) The facility shall maintain records of the costs it incurs in furnishing swing-bed services. Costs related to swing-bed services shall not be cost settled by Medicaid and shall not be used to rebase inpatient hospital rates pursuant to Chapter 30.

Section 12. Medicaid Allowable Payment for Services Provided to Extraordinary Care Clients.

~~(a) Medicaid reimbursement for services provided to extraordinary care clients in a swing bed or nursing facility shall be the per diem rate plus a negotiated rate to cover the cost of medically necessary services and supplies that are not included in the per diem rate.~~

(a) Reimbursement for extraordinary care clients shall follow the rules prescribed in Wyoming Medicaid Rules, Chapter 7, Wyoming Nursing Home Reimbursement System, Section 22, Reimbursement Rate for Extraordinary Care Clients.

~~(i) The Department will negotiate with providers on a case-by-case basis to determine the negotiated rate and the billing procedures for extraordinary care clients.~~

~~(ii) Prior to such negotiations, the provider shall submit to the Department:~~

~~(A) The required clinical documentation as provided through the Department website and manuals and;~~

~~(B) A proposed reimbursement rate, including all relevant financial records and all medical records which document the medical necessity for extraordinary care clients.~~

~~(iii) The Department may request, and the provider shall furnish before a negotiated rate is established, additional information to document the medical necessity of extraordinary care.~~

~~_____ (iv) _____ The negotiated rate shall be the rate agreed upon by the provider and the Department for medically necessary services.~~

~~_____ (v) _____ The Department shall reevaluate the condition of an extraordinary care client after the first fifteen (15) days of admission, again at thirty (30), ninety (90) days and then every six (6) months thereafter. The State shall review records to determine if a renegotiation of the negotiated rate to reflect changes on the client's condition is necessary on a yearly basis. Exceptions to the frequency of reporting are at the discretion of the reviewer. It is the provider's responsibility to report any significant changes in care requirements, condition changes, and/or changes in client physical location at any time prior to the established review.~~

~~_____ (b) _____ All inclusive. The negotiated rate shall be an all inclusive reimbursement rate for all services and supplies furnished by the facility, except as specified in Section 16 and/or as otherwise agreed by the Department.~~

~~_____ (c) _____ Maximum rate. The negotiated rate shall not exceed the actual cost of the services provided to the extraordinary care client.~~

~~_____ (d) _____ Until the Department agrees, in writing, to a negotiated rate, reimbursement for services provided to an extraordinary care client shall be limited to the per diem rate established pursuant to Section 11 of this Chapter.~~

~~_____ (e) _____ The Department's refusal to agree to pay the rate requested by a provider for extraordinary care client is not an adverse action for purposes of the Rules and Regulations of Wyoming Medicaid, Chapter 4, Administrative Hearings.~~

~~_____ (f) _____ The facility shall maintain records of the costs it incurs in furnishing services to each extraordinary care client. Costs related to services for extraordinary care clients shall not be cost settled by Medicaid and shall not be used to rebase inpatient hospital rates pursuant to the Rules and Regulations of Wyoming Medicaid, Chapter 30, Level of Care Inpatient Hospital Reimbursement.~~

Section 13. Transfer to Nursing Facility.

(a) Affected hospitals. All providers of swing-bed services are subject to the requirements of this Section.

(b) Except as provided in subsection (d) an applicant or client receiving swing-bed services ~~must~~ shall be transferred to the first available, appropriate nursing facility bed in the hospital's geographic region upon the availability date, as defined in 42 C.F.R. § 413.114(b). Medicaid reimbursement to the hospital for swing-bed services shall terminate for services provided after the date of the transfer.

(c) The facility ~~must~~ shall maintain records of its efforts to transfer each client, including the facility or facilities contacted, and the response(s). Such records shall be

maintained as part of the client's medical records kept pursuant to ~~Section 6 of this Chapter~~
the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation.

(d) The requirements of subsection (b) shall not apply if the client's physician certifies, in writing, that transfer is not medically appropriate.

Section 14. Payment of Claims.

(a) General requirements. Payment of claims shall be pursuant to the Rules and Regulations of Wyoming Medicaid, Chapter 3, Provider Participation.

(b) Certification. Each claim ~~must~~ shall contain a certification by the provider that the service was medically necessary, that it was provided on the date specified, that third party liability has been paid or, if third party liability has been denied, documentation of that denial is attached, and that the reimbursement sought is not in excess of the provider's usual and customary charge for the service.

Section 15. Medicaid Allowable Payment for Medicaid Program Services.

(a) The Medicaid allowable payment for Medicaid program services furnished to a client receiving swing-bed services shall be determined pursuant to the rules and policies of the Department.

(b) The Medicaid allowable payment for Medicaid program services furnished to an extraordinary care client shall be determined pursuant to the rules and policies of the Department, except:

(i) Inpatient hospital services shall not be reimbursable unless the client is discharged from the swing-bed and admitted to a hospital as an inpatient; and

(ii) As otherwise agreed to by the Department and the hospital pursuant to Sections 12 or 13.

(c) Claims for Medicaid program services shall be submitted pursuant to the rules and policies of the Department.

Section 16. Audits. Audits are subject to the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 16, Medicaid Program Integrity.

Section 17. Medical Necessity Reviews.

(a) The Department may review medical records or conduct on-site medical necessity reviews to determine whether the services a patient is receiving are medically

necessary.

Section 18. Recovery of Overpayments. The Department shall recover overpayments pursuant to the provisions of the Rules and Regulations of Wyoming Medicaid, Chapter 16, Medicaid Program Integrity.

Section 19. Reconsideration. A provider may request reconsideration of the decision to recover overpayments pursuant to the provisions of the Rules and Regulations of Wyoming Medicaid, Chapter 16, Medicaid Program Integrity.

Section 20. Delegation of Duties. The Department may delegate any of its duties under this rule to the Wyoming Attorney General, HHS, any other agency of the Federal, State or local government, or a private entity which is capable of performing such functions, provided that the Department shall retain the authority to impose sanctions, recover overpayments or take any other final action authorized by this Chapter.

Section 21. Interpretation of Chapter.

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of this Chapter shall control the titles of various provisions.

Section 22. Superseding Effect. This Chapter supersedes all prior rules or policy statements issued by the Department, including manuals and/or bulletins, which are inconsistent with this Chapter.

Section 23. Severability. If any portion of these rules is found invalid or unenforceable, the remainder shall continue in effect.

Section 24. Incorporation by Reference

(a) For any code, standard, rule or regulation incorporated by reference in these rules:

(i) The Department of Health has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of these rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section; and

(iii) The incorporated code, standard, rule, or regulation is maintained at

the Department of Health and is available for public inspection and copying at cost at the same location.

(b) Each rule incorporated by reference is further identified as follows:

(i) Referenced in Section 3 is Chapter 1 – Rules and Regulations for Medicaid - Definitions, adopted by the Department of Health and effective on November 7, 2011, found at

<http://soswy.state.wy.us/Rules/RULES/8384.pdf>

(ii) Referenced in Section 8 is Chapter 19 – Rules and Regulations for Medicaid – Nursing Facility Preadmission Screening, adopted by the Department of Health and effective on May 29, 2012, found at

<http://soswy.state.wy.us/Rules/RULES/8613.pdf>

(iii) Referenced in Section 10 is Chapter 22 – Rules and Regulations for Medicaid – Evaluation of Medical Necessity for Medicaid Long Term Care Programs, adopted by the Department of Health and effective on September 26, 2014, found at

<http://soswy.state.wy.us/Rules/RULES/9630.pdf>

(iv) Referenced in Sections 11 and 12 is Chapter 7 - Rules and Regulations for Medicaid – Wyoming Nursing Home Reimbursement System, adopted by the Department of Health and effective on May 29, 2012, found at

<http://soswy.state.wy.us/Rules/RULES/8611.pdf>

(v) Referenced in Section 11 is Chapter 30 – Wyoming Medicaid Rules – Level of Care Inpatient Hospital Reimbursement, adopted by the Department of Health and effective on November 18, 1997, found at

<http://soswy.state.wy.us/Rules/RULES/2774.pdf>

(vi) Referenced in Section 16 is Chapter 16 - Rules and Regulations for Medicaid – Medicaid Program Integrity, adopted by the Department of Health and effective on November 7, 2011, found at

<http://soswy.state.wy.us/Rules/RULES/8386.pdf>

(vii) Referenced in Sections 5, 6, 7, 13, and 14 is Chapter 3 – Wyoming Medicaid Rules – Provider Participation, adopted by the Department of Health and effective on December 16, 1998, found at

<http://soswy.state.wy.us/Rules/RULES/3349.pdf>